UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF WEST VIRGINIA ELKINS

KIMBERLY LANDIS and ALVA NELSON, as parents and guardians of A.N., a minor,

Plaintiffs,

٧.

Civil Action No. 2:11-CV-101 (BAILEY)

HEARTHMARK, LLC, d/b/a Jarden Home Brands, WAL-MART STORES, INC., C.K.S. PACKAGING, INC., PACKAGING SERVICE COMPANY, INC., and STULL TECHNOLOGIES, INC.,

Defendants/Third Party Plaintiffs,

٧.

KIMBERLY LANDIS and ALVA NELSON, in their individual capacities,

Third Party Defendants.

ORDER DENYING *DAUBERT* MOTIONS REGARDING PLAINTIFFS' EXPERT RUTH RIMMER, Ph.D., CLCP

Pending before this Court are defendants Hearthmark, LLC and Wal-Mart Stores, Inc.'s Motion to Exclude Life Care Plan and Testimony of Plaintiffs' Expert Ruth Rimmer, Ph.D., CLCP [Doc. 642], filed December 23, 2013, and C.K.S. Packaging, Inc.'s Joinder to ECF No. 642 - Hearthmark, LLC and Wal-Mart Stores, Inc.'s Motion to Exclude Life Care Plan and Testimony of Plaintiffs' Expert Ruth Rimmer, Ph.D., CLCP [Doc. 670], filed January 6, 2014. The Motions have been briefed and the same is ripe for decision.

In the above Motion, the plaintiffs seek to exclude the life care plan and testimony

of plaintiffs' expert Ruth Rimmer under Rule 702 of the Federal Rules of Evidence and

Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993).

By Order entered September 19, 2013, this Court ordered that no *Daubert* motions

shall be filed after November 22, 2013 [Doc. 410]. Inasmuch as these Motions were filed

over a month after the deadline and in contravention of this Court's Order, the same will de

denied.

Accordingly, defendants Hearthmark, LLC and Wal-Mart Stores, Inc.'s Motion to

Exclude Life Care Plan and Testimony of Plaintiffs' Expert Ruth Rimmer, Ph.D., CLCP

[Doc. 642], filed December 23, 2013, and C.K.S. Packaging, Inc.'s Joinder to ECF No. 642

- Hearthmark, LLC and Wal-Mart Stores, Inc.'s Motion to Exclude Life Care Plan and

Testimony of Plaintiffs' Expert Ruth Rimmer, Ph.D., CLCP [Doc. 670], filed January 6, 2014

are **DENIED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: January 15, 2014.

JOHN PRESTON BAILEY

UNITED STATES DISTRICT JUDGE

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